

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 47-73 will be pending in the present application. Claims 1-46 were previously cancelled.

The specification has been amended above to indicate that that U.S. patent application no 09/970,383, from which the present application claims priority, has now issued as U.S. Patent no. 6,626,175. Accordingly, applicant requests that this amendment to the specification be approved

Claims 47-73 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4-10, 12-16, 18, 19, 21-24, 26-30, 32, and 33 of U.S. Patent No. 6,626,175 to Jafari et al. ("the '175 patent"). As suggested by the Examiner, a Terminal Disclaimer executed by the undersigned applicant's representative in compliance with 37 C.F.R. § 1.321(c) is submitted herewith to disclaim the term of a patent resulting from the present application from extending beyond that of the '175 patent. Accordingly, applicants respectfully requests that the above obviousness-type double patent rejection be withdrawn.

The Commission is authorized to charge the Terminal Disclaimer fee required under 37 C.F.R. § 1.20(d) to deposit account no. 50-0558. Two copies of a Fee Transmittal form are submitted for this purpose.

JAFARI et al. et al. -- Appln. No.: 10/617,590

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

By 

Michael W. Haas

Reg. No.: 35,174

Tel. No.: (724) 387-5026

Fax No.: (724) 387-5021

RESPIRONICS, INC.
1010 Murry Ridge Lane
Murrysville, PA 15668-8525

Attached: Terminal Disclaimer by Attorney